IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

LA.App..No. 1337 of 2000(D)

LAR.9/1995 of SUB COURT, MANJERI
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APPELLANT:

P.K.VENUGOPALAN,
KAVAYANGATTU HOUSE,
PAPPINIPPARA, MANJERI.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

STATE OF KERALA, REP. BY
DISTRICT COLLECTOR, MALAPPURAM.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1337 of 2000

Dated this the 24th day of September, 2007

J U D G M E N T

Harun-Ul-Rasheed,J.

This Land Acquisition Appeal is filed by the claimant in L.A.R.No.9/1995 against the judgment and decree dated 30-10-1999 on the file of the Sub Court, Manjeri. The property belonging to the claimant was acquired for construction of Low Level Reservoir and Pipe-line Road for UWSS, Manjeri. The Section 4(1) notification is dated 27-7-1992. The Land Acquisition Officer awarded Rs.5,664/- per cent as against the claim of Rs.60,000/- per cent. The extent acquired is 21.75 cents in survey number RS 211/4 of Narukara Village. The appellant-claimant examined AW1 to AW4 and produced Exts.A1 to A4 in support of his claim for enhanced compensation. The property covered by Exts.A1 to A3 are located very close to the Central Junction, Manjeri and having high potential value and commercial importance. According to Ext.C1 report submitted by the Commissioner, the acquired land is lying at a distance of 2

Kms. away from the Manjeri Central Junction and is located facing the Manjeri-Nilambur Road. Exts.A1 to A3 sale documents were not relied on by the reference court for valid reasons.

2. The appellant-claimant has produced the common judgment in L.A.R.Nos.15/1997 and 16/1997 before this court. The lands covered by the above said L.A.Rs are acquired for the construction of the Pipeline Road at Cherani. The survey number of the acquired lands covered by the above said L.A.Rs is RS 214/3 of Narukara Village. In L.A.R.Nos.15 and 16 of 1997 the Land Acquisition Officer granted Rs.4,000/- and Rs.3,473/- per cent respectively. This was enhanced to Rs.9818/- by the reference court by judgment dated 29-6-2002. In L.A.R.No.9/1995, which is the subject matter of this appeal, the Land Acquisition Officer granted an amount of Rs.5664/- per cent, which is a higher value than the value fixed for the land in L.A.R.Nos.15 and 16 of 1997. At the same time in L.A.R.No.9/1995 the Sub Court enhanced the land value and fixed it only at Rs.6500/-, whereas in the connected L.A.Rs the land value was fixed at Rs.9818/- per cent. Considering the comparable nature of the property we are of the view that the

acquired land is more valuable than the lands covered by L.A.R.Nos.15 and 16 of 1997, taking into account the valuation made by the Land Acquisition Officer in all these cases. Hence, in the facts and circumstances of the case, we fix the value of the acquired land in L.A.R.No.9/1995 at the rate of Rs.9818/- per cent in parity with the value fixed in L.A.R.Nos.15 and 16 of 1997.

3. The appellant has a further case that the beneficial use of the remaining extent of 48 cents, left after the acquisition has been decreased. AW1 also tendered evidence stating that value of the rest of the properties was diminishing. The Commissioner in his report stated that the value of the remaining property has been reduced by Rs.6,000/- per cent. But it has come out in evidence that the acquired property was lying at a low level from the main road, to the extent of around 6 meters. According to the claimant, he may be granted at least Rs.60,000/- towards injurious affection. Though the appellant has a case that the access has been completely blocked, it has come out in evidence of RW1 that the property has a separate access. However, the fact remains that, prior to acquisition, the entire

property was abutting the main road with access from any point; but after acquisition that advantage is completely lost and the access is on one end through another road. Considering the entire facts on record, we are of the view that the claimant is entitled to compensation towards diminution in land value. We fix Rs.60,000/- towards the diminution in land value for the rest of the property, having an extent of around 48 cents.

Accordingly we allow the appeal. The land value of the acquired land is refixed at Rs.9818/- per cent. An amount of Rs.60,000/- is further granted towards injurious affection. The appellant-claimant is entitled to all the eligible statutory benefits under the Act. The judgment and decree are modified accordingly. There will be no order as to costs.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A.No. 1337 of 2000

JUDGMENT

24th September, 2007